

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

S. HOWARD HOMES, INC.,

Defendant-Appellant.

UNPUBLISHED

June 6, 2000

No. 213253

Wayne Circuit Court

LC No. 97-502461

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

SHIRLEY HOWARD-COATES,

Defendant-Appellant.

No. 213257

Wayne Circuit Court

LC No. 97-502458

Before: Hoekstra, P.J., and Holbrook, Jr. and Zahra, JJ.

MEMORANDUM.

Defendants appeal as of right their plea-based convictions for obtaining money under false pretenses, over \$100, MCL 750.218; MSA 28.415. We reverse in part. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

On appeal, defendants argue that the trial court erred in ordering restitution paid to the State of Michigan, where the Crime Victim's Rights Act, MCL 780.766; MSA 28.1287(766), only authorized restitution to individuals at the time the crimes were committed.

At the time of defendants' crimes, the Crime Victim's Rights Act defined a crime victim in such a way as to exclude government agencies from being considered victims who could seek restitution under the statute. *People v Chupp*, 200 Mich App 45, 49; 503 NW2d 698 (1993). The statute was

subsequently amended to include government agencies within the definition of victims; however, retrospective application of a criminal law that disadvantages the defendant violates the Ex Post Facto Clause of Const 1963, art 1, § 10. *People v Slocum*, 213 Mich App 239, 243; 539 NW2d 572 (1995). Here, the amended statute is retrospective where it applies to acts committed prior to the amendment. *Id.* Increasing the amount of restitution for which a defendant would be responsible increases his punishment, thus retroactive application of the statute would be in violation of the Ex Post Facto Clause. *Id.*, 244.

Accordingly, we vacate that portion of the trial court's order requiring defendants to pay restitution. Defendants' convictions and sentences are otherwise affirmed. We do not retain jurisdiction.

/s/ Joel P. Hoekstra

/s/ Donald E. Holbrook, Jr.

/s/ Brian K. Zahra